REMARKS

The Applicants have now had an opportunity to carefully consider the comments set forth in the Office Action that was mailed November 15, 2007, which reopened prosecution. All of the rejections are respectfully traversed. Amendment, reexamination and reconsideration of the application are respectfully requested.

The Office Action

In the Office Action that was mailed November 15, 2007:

A Response to Arguments presented in the Appeal Brief that was filed February 13, 2007, for which a Reply to Notification of Non-Compliant Appeal Brief was filed August 16, 2007, and of which a redacted copy removing instances of an erroneous serial number indication was mailed on October 30, 2007 (not November 11, 2007, as indicated in the Office Action), was provided;

claims 1-9, 11-17, 19-21 and **24-25** were rejected under 35 USC §102(e) as being anticipated by U.S. Patent Application Publication No. 2004/0160914 by Sarkar ("Sarkar"), which was filed August 22, 2003, three weeks after the July 31, 2003, filing date of the present application;

claims 10 and **18** were rejected under 35 USC §103(a) as being unpatentable over Sarkar in view of U.S. Patent Application Publication No. 2002/0151310 by Chung et al. ("Chung"); and

claim 23 was rejected under 35 USC §103(a) as being unpatentable over Sarkar in view of U.S. Patent Application Publication No. 2002/0136192 by Holma et al. ("Holma").

The Present Application

By way of brief review, the present application is directed at methods and systems for controlling overload over a reverse link. The method includes evaluating the reverse link loading by examining a plurality of "resources" or aspects of loading. For example, as explained in paragraph 63 (page 17, lines 6-17), one estimate of reverse link loading is a summation over the total number of users in a sector of a function of Media Access Control (MAC) activity, traffic activity and received pilot power from the associated Access Terminals (AT) or mobile devices.

As indicated at paragraphs 58 and 59 (page 15, line 28-page 16, line 22) sector loading may be computed by using any of a number of factors together with

the ratio of interference from neighboring cells/sectors to interference of the sector of interest. Increased accuracy is achieved as is compensation for inaccuracy of "other-cell interference" by using received signal strength indication (RSSI) rise as an indicator of sector coverage that may offer additional information with regard to sector loading and interference.

This evaluation of a plurality of measures of system loading or "resources" is then used in determining an "availability of resources" to be indicated in a broadcast message.

The Cited Documents

In stark contrast, the primary reference of the Office Action allegedly discloses techniques for congestion control in a wireless data network that does not include evaluating a reverse link loading by examining at least two resources. In an effort to support the contrary assertion, the Response to Arguments section of the Office Action cites paragraphs 71 and 61 of Sarkar. However, paragraphs 71 and 61 do not disclose or suggest a method that involves evaluating a reverse link loading by examining at least two resources and broadcasting an availability of resources message in response to the evaluator reverse link loading.

Instead, paragraph 71 of Sarkar describes targeted communication between a mobile station and a base station. Paragraph 71 indicates that a base station makes a determination of whether resources are available to accommodate a request of the mobile station. However, paragraph 71 is silent with regard to how that determination is made and does not disclose or suggest evaluating a reverse link loading by examining at least two resources.

With reference to Fig. 3, which is a block diagram of a wireless communication device, such as a mobile station or base station (paragraph 15), paragraph 61 describes a channel quality estimator and indicates that in a mobile station, C/I (carrier-to-interface) measurements can be made. Additionally, paragraph 61 indicates that "measurements of any signal or channel used in the system may be measured in the channel quality estimator of a given embodiment." With regard to a base station or mobile station, signal strength estimations, such as received pilot power, can be made. Various types of signal strength estimates can be made, depending on which signal or which system type is being estimated. However, paragraph 61 does not disclose or suggest estimating a reverse link

loading by examining at least **two** resources as recited in **claim 1** of the present application.

Accordingly, it is respectfully submitted that the assertions of the Response to Arguments section represent **clear errors** of the Office Action.

It is respectfully submitted that the secondary references do not cure the deficiencies of Sarkar.

For example, Chung allegedly discloses a method for controlling reverse rates among mobile stations to reduce reverse link interference. The method includes "at the base station controlling the reverse data rate of the mobile device based on an estimated amount of interference the mobile device is causing to other sectors. The estimated amount of interference is based on a forward-link SIR for the mobile device. The forward-link SIR is averaged over a period of time. The estimated amount of interference is based on pilot power from the mobile device received at the base station **or** on the total power received from the mobile device at the base station **or** on the mobile device's request forward-link data rate." (paragraph 36). It is respectfully submitted that Chung does not disclose or suggest evaluating a reverse link loading by examining at least **two** resources as recited **claim 1**.

Holma allegedly discloses a method or system for controlling the power of a network part transmitter (base station) in a radio system.

Reply to Response to Arguments

Pages 2-4 of the Office Action include a Response to Arguments presented in the Appeal Brief of the Applicants. In this regard, it is noted that the Appeal Brief was originally filed on February 13, 2007, and that, at the Examiner's request, a redacted copy thereof was provided on October 30, 2007. Accordingly, the reference of the Office Action to a November 11, 2007 Appeal Brief date appears to be an error.

At the bottom of page 2, the Response to Arguments section of the Office Action characterizes the Appeal Brief by asserting that "Applicants basically argue that Sarkar does not disclose 'evaluating a reverse link loading by examining at least two resources within a first time period and broadcasting an availability of resources message in response to the evaluated reverse link loading.'" To this argument, the Office Action responds by asserting that "Examiner respectfully disagrees, because, although the claims are interpreted in light of the specification, limitations from the

specification are not read into the claims." However, the Office Action provides no indication as to what portion of the specification would be required to be read into the claims or what bearing that might have on whether or not Sarkar discloses the subject matter recited in **claim 1** (i.e., evaluating a reverse link loading by examining at least two resources and broadcasting an availability of resources message in response to the evaluated reverse link loading).

Clarification of the position of the Office with regard to which element from the specification the Examiner believes would have to be read into the claims in order to support an argument that Sarkar does not disclose the subject matter of **claim 1** is respectfully requested.

Beginning at the last line of page 2 through the first five lines of page 3, the Office Action repeats text from paragraph 71 of Sarkar. The repeated text includes the sentence "The base station makes a determination of whether resources are available to accommodate the request" and then paraphrases language from **claim 1** of the present application and places it in quotes. However, **claim 1** does not recite evaluating a reverse link loading by examining resources within a first time period suggested by the Office Action. Instead, **claim 1** recites: "evaluating a reverse link loading by examining **at least two** resources within a first time period". Additionally, it is respectfully submitted that even though Sarkar uses the plural form of the word --resources-- in the sentence referred to above, this sentence does not disclose or suggest evaluating a reverse link loading by examining at least two resources. Instead, it is respectfully submitted that Sarkar uses the plural form of the word because the use of the singular form of the word in this context would have been awkward.

Furthermore, it is respectfully submitted that the interpretation apparently being given to the word --resources--, and this cited sentence, by the Office is not in keeping with the disclosure of Sarkar as a whole. For example, paragraph 61, cited at the end of the Response to Arguments section, indicates that various types of signal strength estimates can be made depending on which signal or which system type is being estimated. However, paragraph 61 does not disclose or suggest that at least two signal strength estimates are made in any one embodiment.

Additionally, independent **claims 1, 13** and **21** have been amended to indicate that the result of the examination of one resource is used to adjust or

calibrate an interpretation or significance of the other resource (i.e., one resource evaluation is used to select a threshold for evaluating another resource).

It is respectfully submitted that even if Sarkar could be fairly interpreted as suggesting an examination of at least two resources, Sarkar does not disclose or suggest adjusting an interpretation of one resource based on an examination of a second resource. This amendment is supported, for example, by Figs. 4 and 5 and for example, paragraph 29 which indicates that the received signal strength indication may be of benefit in performing the step of evaluating the reverse link load. Paragraph 31 indicates that a threshold may be raised to a relatively higher value than initially set if the step of evaluating results in determining the reverse link load (a second resource) to be relatively smaller than an initial set point. Similarly, the threshold may be lowered to a relatively lower value than initially set if the step of evaluating results in determining the reverse link load to be relatively larger than an initial set point. By this arrangement, adverse control reactions based on the rise in the received signal strength indication may be minimized. In this way, the evaluation or examination of one resource (e.g., reverse link loading) is used to interpret or calibrate the significance of a second resource examination or measurement (e.g., received signal strength indication rise). Additional support can be found in the discussion related to Figs. 4 and 5 which begins at paragraph 35, including for example, paragraph 41.

The Claims Are Not Anticipated

Claims 1-9, 11-17, 19-21 and **24-25** were rejected under 35 USC §102(e) as being anticipated by Sarkar, which was filed approximately three weeks **after** the filing date of the present application. Identification of any priority document and supporting subsection therefrom in regard to any new or maintained rejections that would allow Sarkar to be cited against the claims of the present rejection is requested.

In an effort to explain the rejections of **claims 1** and **13**, the Office Action attempts to combine discussions from paragraph 60, paragraphs 71 and 75 and paragraph 138 of Sarkar. However, as indicated by the distance between these paragraphs, they are related to different subject matter. Furthermore, the individual paragraphs do not include the subject matter for which they are relied.

For example, the Office Action combines the subject matter from these

paragraphs in an effort to support the assertion that Sarkar discloses examining at least two resources within a first time period and broadcasting an availability of resources message in response to that evaluation. However, while paragraph 71 indicates that a "base station makes a determination of whether resources are available to accommodate the request", it is respectfully submitted that the use of the plural form of the word --resources-- is simply linguistically convenient and does not disclose or suggest a technical evaluation and examination of at least two resources as recited in **claims 1** and **13**. Furthermore, such an interpretation is not in keeping with Sarkar as a whole.

Paragraph 75 discusses how traffic to pilot (T/P) ratios are determined and does not disclose or suggest evaluating at least two resources so that an availability of resources message can be broadcast based on the evaluation.

Paragraph 138 indicates that individual and/or common grants may be allocated to one or more mobile stations and that a resultant message may be transmitted to those mobile stations. However, even if this transmission of messages is deemed to fairly read on broadcasting, paragraph 138 does not indicate the transmitted messages are based on the determined T/P values of paragraph 75 or the determination that resources are available of paragraph 71.

For at least the foregoing reasons, independent **claims 1** and **13**, as well as **claims 2-12** and **14-20**, which depend respectively therefrom are not anticipated by Sarkar.

Additionally, **claims 1** and **13** have been amended to indicate that wherein the evaluating includes selecting at least a first threshold by which at least the first of the at least two resources is evaluated, based on the examination of at least a second of the at least two resources. It is respectfully submitted that these amendments are supported throughout the specification including, for example, **claims 4** and **15**, paragraphs 31 and 41 (page 7, line 21-page 8, line 2 and page 10, line 19-page 11, line 2, respectively) and Figs 4 and 5. As depicted, for example, in Fig. 4, a rate control threshold to which an RSSI rise is compared or evaluated is varied according to or based on a fractional loading.

It is respectfully submitted that Sarkar does not disclose or suggest varying a threshold used to evaluate a first resource based on or as a function of a second examined resource.

Additionally, it is submitted that because of the recitation in original **claims 4**

and **15**, these amendments do not require a new search or new grounds of rejection.

For at least the foregoing additional reasons, **claims 1** and **13**, as well as **claims 2-12** and **14-20**, which depend respectively therefrom, are not anticipated by Sarkar.

With regard to **claim 2**, the Office Action cites paragraph 60 and paragraph 75 of Sarkar. However, while paragraph 60 indicates that messages may include C/I measurements and power control messages, Sarkar does not indicate that C/I measurements and power control messages are resources that are examined in order to evaluate reverse link loading for the purpose of generating an availability of resources message which is then later broadcast. In this regard, it is noted that paragraph 138, cited for alleged disclosure of broadcasting an availability of resources message, appears to indicate that a message results from individual and/or common grants, the allocations for which may be computed using requests for transmission received and the expected amount of autonomous transmission and does not reference or suggest that the C/I measurements or power control messages mentioned in paragraph 60 are at all involved. Paragraph 75 discusses traffic to pilot ratios and determination thereof. Sarkar does not disclose or suggest that T/P ratios are measured or evaluated in order to determine an availability of resources message that is then broadcast.

Additionally, it is noted that the Office Action refers to "quality channel indications" as if it is a separate resource, when (it is submitted), it is merely a classification of information included in messages that covers such things as C/I measurements, power control messages or control channel messages (see paragraph 60). Even if discussion of these messages could be construed as a discussion of resources (which is disputed), the logic employed by the Office requires there to be four messages, and the Office has only identified three messages and a category applied to those messages.

For any or all of the foregoing additional reasons, **claim 2** is not anticipated by Sarkar.

With regard to **claim 3**, the Office Action again cites paragraph 60 and the channel quality indication messages including C/I measurements, power control messages, and control channel messages. However, paragraph 60 does not disclose or suggest that these messages comprise resources or that an availability of resources message is broadcast in response to an evaluation of these messages.

For the foregoing additional reasons, **claim 3** is not anticipated by Sarkar.

It is noted that **claim 3** has been amended to correct a typographical error by insertion of the word --of--.

The Office Action dissects the two elements of **claim 4** into six pieces and cites paragraphs 36, 60, 120, 29, 61 and 70 there against.

However, while paragraph 36 includes the phrase --signal to noise--, paragraph 36 does not disclose or suggest evaluating a reverse link loading comprises computing the sector loading by measuring energy in a pilot signal over total noise. Instead, paragraph 36 simply includes a sentence that indicates that inner loop power control commands occur relatively frequently, so as to quickly adapt the transmitted power to the level necessary to achieve the desired signal to noise and interference ratio for efficient communication.

For at least the foregoing additional reason, **claim 4** is not anticipated by Sarkar.

Even if paragraph 60 discusses control messages generally, this does not disclose or suggest data rate control (DRC) values or evaluating a reverse link loading comprises computing the sector loading by measuring energy in a pilot signal over total noise and DRC values.

For at least the foregoing additional reason, **claim 4** is not anticipated by Sarkar.

Even if paragraph 120 indicates the "different users may be transmitted to at different power levels if independent each subchannel has an independent channel gain", this does not disclose or suggest that a channel gain is measured. Furthermore, paragraph 120 does not disclose or suggest evaluating a reverse link loading comprises computing the sector loading by measuring energy in a pilot signal over total noise, DRC values, and channel gain.

For at least the foregoing additional reason, **claim 4** is not anticipated by Sarkar.

Even if paragraph 29 indicates that "the data rate that is supportable depends primarily upon the available power and Walsh codes after the power and Walsh codes for the overhead, IS-95 and IS-2000 channels have been assigned" and that "the data transmitted on the F-PDCH is spread using one or more Walsh codes", this does not disclose or suggest evaluating a reverse link loading comprises computing the sector loading by measuring energy in a pilot signal over total noise, DRC

values, channel gain and used Walsh code space.

For at least the foregoing additional reason, **claim 4** is not anticipated by Sarkar.

Even if paragraph 61 indicates that signal strength estimations, such as received pilot power can be made, that does not disclose or suggest that a received signal strength indication rise corresponds with a total received power at a sector.

For at least the foregoing additional reason, **claim 4** is not anticipated by Sarkar.

Even if paragraph 70 discusses quality of service and that scheduling considerations may include available mobile station transmit power and that it is desirable for any configuration to reduce the signal to noise ratio for a selected mix, this does not disclose or suggest that a received signal strength indication rise corresponds with a total received power at a sector, with a noise floor and with a threshold that varies to minimize adverse control reactions.

For any or all of the foregoing additional reasons, it is respectfully submitted that **claim 4**, as well as **claims 5-8**, which depend therefrom, is not anticipated by Sarkar.

With regard to **claim 5**, the Office Action cites paragraph 152 and paragraph 70. However, paragraph 152 discusses the rate table 1000 depicted in Fig. 10 and is completely silent with regard to sampling a received signal strength indication for calculating a noise floor and the received signal strength indication rise in response to sampling the received signal strength indication as recited in **claim 5**.

For at least the foregoing additional reason, **claim 5** is not anticipated by Sarkar.

Even if paragraph 70 mentions a quality of service, available transmit power and a desire to reduce a signal to noise ratio, this does not disclose or suggest sampling a received signal strength indication and calculating a noise floor and the received signal strength indication rise in response to sampling the received signal strength indication as recited in **claim 5**.

For at least the foregoing additional reason, **claim 5** is not anticipated by Sarkar.

With regard to **claim 6**, the Office Action cites paragraph 49. However, even if paragraph 49 indicates that reverse link signals from the mobile station may be received at multiple base stations, and the quality of the reverse link in generally

maintained for the base stations in the active set, this does not disclose or suggest changing a longest idle user to at least one of inactive status and dormant status if a sector state is above a slow control threshold, as recited in **claim 6**. Clarification of the position of the Office is respectfully requested.

For at least the foregoing additional reason, **claim 6**, as well as **claims 7** and **8**, which depend therefrom, is not anticipated by Sarkar.

With regard to **claim 7**, the Office Action cites paragraphs 72 and 73. However, paragraph 72 indicates that techniques are detailed below to reduce the number or required transmit power of requests and grants required for reverse link data transmission, and paragraph 73 indicates that to avoid the delay introduced by a request/grant handshake an autonomous reverse link transmission mode is supported. A mobile station may transmit data at a limited rate on the reverse link without making a request or waiting for a grant.

However, it is respectfully submitted that paragraphs 72 and 73 do not disclose inactivating a user with a maximum number of bytes transferred if all users are active and changing an access resistance timer if all users are not at least one of active idle and having a maximum number of bytes transferred, as recited in **claim 7**.

For at least the foregoing additional reasons, **claim 7**, as well as **claim 8**, which depends therefrom, is not anticipated by Sarkar.

With regard to **claim 8**, the Office Action cites paragraphs 73 and 47. However, paragraph 73 does not even mention an access resistance timer. Furthermore, paragraph 73 does not disclose or suggest that an access resistant timer determines if subsequent access attempts by a user after a previous attempt failed. Even if paragraph 47 indicates that a mobile station responds on the reverse link following the receipt of data indicating that the mobile station is the target of a transmission with a message indicating the success or failure of the transmission, this does not disclose or suggest the use of an access resistance timer or that an access resistance timer determines if subsequent access attempts by a user after a previous attempt failed as recited in **claim 8**. Clarification of the position of the Office is respectfully requested.

For at least the foregoing additional reasons, **claim 8** is not anticipated by Sarkar.

With regard to **claim 11**, the Office Action cites paragraph 61 and refers to scheduling, signal strength estimations and C/I measurements. However, even if

paragraph 61 mentions scheduling, signal strength estimations and C/I measurements, this does not disclose or suggest controlling the reverse link by at least one of managing a traffic channel in response to an average of the received signal strength indication rise and the filtered load estimate and managing the number of active connections in response to the average of the received signal strength indication rise and the filtered load estimate, as recited in **claim 11**. Clarification of the position of the Office is respectfully requested.

For at least the foregoing additional reasons, **claim 11** is not anticipated by Sarkar.

With regard to **claim 12**, the Office Action cites paragraph 61 and asserts that signal strength estimations are made for scheduling and that it is inherent that more than one estimation is made at different times. However, **claim 12** recites determining an available transmit rate in response to examining the at least two resources associated with the reverse link within a second time period, the second time period being an order of magnitude greater than the first time period.

It is respectfully submitted that paragraph 61 does not disclose the details recited in **claim 12**. Discussion of scheduling does not in and of itself disclose determining an available transmit rate. Furthermore, paragraph 61 does not disclose or suggest determining an available transmit rate in response to examining the at least two resources. Moreover, paragraph 61 does not disclose or suggest determining an available transmit rate in response to examining the at least two resources associated with the reverse link.

For at least the foregoing additional reasons, **claim 12** is not anticipated by Sarkar.

With regard to **claim 14**, the Office Action cites paragraph 60. However, paragraph 60 discusses messages that might be decoded by message decoder 330 and does not disclose a detector for evaluating a reverse link loading. Furthermore, the Office Action cites --channel quality indications-- as if it were a resource in a set of alleged resources including C/I measurements, power control messages and control channel messages. However, even if the other elements of the group could fairly be construed as being related to resources, channel quality indications is simply **a category** designated by paragraph 60 as including the other elements. Accordingly, even if the interpretation of the Office Action that "two of these resources are interpreted as being in use and the other two as leftover" were a fair

one (which is disputed), these are not four alleged resources.

For at least the foregoing additional reasons, **claim 14**, as well as **claims 15-20**, which depend therefrom, is not anticipated by Sarkar.

The Office Action applies similar reasoning to the rejection of **claim 15** as is applied to the rejection of **claim 4**. Accordingly, arguments similar to those submitted in support of **claim 4** are submitted in support of **claim 15**. Even if paragraph 36 mentions --signal to noise--, even if paragraph 60 mentions --control messages--, even if paragraph 120 mentions a --channel gain-- and even if paragraph 29 mentions --Walsh codes--, these quite separate discussions are in different contexts and do not disclose or suggest a detector that computes a sector loading by measuring energy in a pilot signal over noise, DRC values, channel gain and used Walsh code space as recited in **claim 15**. Even if paragraph 61 mentions --signal strength estimations such as received pilot power-- and even if paragraph 70 mentions --minimum quality of service guarantees, available transmit power, and a desire to reduce signal to noise ratios--, this does not disclose or suggest that a received signal strength indication rise corresponds with a total received power at a sector, with a noise floor and with the threshold that varies to minimize adverse control reactions, as is recited in **claim 15**.

For at least the foregoing additional reasons, **claim 15** is not anticipated by Sarkar.

The Office Action explains the rejection of **claim 16** with reasoning that it is similar to the reasoning provided with regard to **claim 5**. Accordingly, arguments similar to those submitted in support of **claim 5** are submitted in support of **claim 16**. Even if paragraph 152 discusses storing, adjusting and determining, and fixing various parameters, and even if paragraph 7 mentions --minimum quality of service guarantees, available transmit power and desire to reduce a signal to noise ratio--, this does not disclose or suggest a sampler for sampling a received signal strength indication and a calculator for calculating a noise floor in the received signal indication rise in response to the sampling of the received signal strength indication as is recited in **claim 16**.

For at least the foregoing additional reasons, **claim 16** is not anticipated by Sarkar.

The Office Action explains the rejection of **claim 19** with reasoning that is similar to that provided with regard to **claim 11**. Accordingly, arguments similar to

those submitted in support of **claim 11** are submitted in support of **claim 19**. Briefly, even if paragraph 61 indicates that various types of signal strength estimates can be made and that channel quality estimates are used for scheduling or determining the reverse link quality, this does not disclose a controller for managing the reverse link by at least one of controlling a traffic channel transmission rate in response to a **relatively short term average** of the **received signal strength indication rise** and the **filtered loading estimate** and controlling the number of active connections in response to a **relatively long term average** of the **received signal strength indication rise** and the **filtered loading estimate** as recited in **claim 19**. Clarification of the position of the Office is respectfully requested.

For at least the foregoing additional reasons, **claim 19** is not anticipated by Sarkar.

The Office Action explains the rejection of **claim 20** with reasoning similar to that presented with regard to **claim 12**. Accordingly, arguments similar to those submitted in support of **claim 12** are submitted in support of **claim 20**. Briefly, even if paragraph 61 indicates that signal strength estimations are made for scheduling, this does not disclose that a detector determines an available transmit rate in response to examining at least two resources associated with the reverse link within a second time period, the second time period being an order of magnitude greater than the first time period. Clarification of the position of the Office is respectfully requested.

For at least the foregoing additional reasons, **claim 20** is not anticipated by Sarkar.

The Office Action explains the rejection of **claim 21** with reasoning similar to that presented with regard to **claims 1** and **13**. Briefly, paragraph 50 discusses controlling a transmit power level and does not disclose or suggest determining a loading on the reverse link. Additionally, **claim 21** has been amended in a manner similar to that described with regard to **claims 1** and **13**. It is respectfully submitted that Sarkar does not disclose determining a reverse link loading includes selecting at least a first threshold by which at least a first of the at least two resources is evaluated, based on an examination of at least a second of the at least two resources.

For at least the foregoing reasons, **claim 21** is not anticipated by Sarkar.

With regard to **claim 24**, the Office Action cites paragraph 61. However, the

discussion there of scheduling based on channel quality estimates, even if those included signal strength estimations and C/I measurements, as implied by the Office Action, does not disclose managing reverse link loading in response to an average of a rise in a received signal strength indication and a filtered loading estimate. Clarification of the position of the Office is respectfully requested.

For at least the foregoing additional reason, **claim 24** is not anticipated by Sarkar.

The Office attempts to explain the rejection of **claim 25** with reasoning similar to that presented with regard to **claims 5** and **16**. Accordingly, arguments similar to those submitted in support of **claims 5** and **16** are submitted in support of **claim 25**, and the attention of the Examiner is directed thereto.

For at least the foregoing additional reasons, **claim 25** is not anticipated by Sarkar.

The Claims Are Not Obvious

Claims 10 and **18** were rejected under 35 USC §103(a) as being unpatentable over Sarkar in view of Chung.

However, **claims 10** and **18** depend from **claim 1** and **13**, respectively, and they are not anticipated and are not obvious for at least that reason.

Claim 23 was rejected under 35 USC §103(a) as being unpatentable over Sarkar in view of Holma.

In an attempt to explain this rejection, the Office Action stipulates that Sarkar does not disclose the subject matter of **claim 23** and attempts to rely on Holma for this disclosure. However, **claim 23** recites the step of controlling a traffic channel comprises a relatively faster control of the traffic channel and the step of controlling a number of active connections comprises a relatively slower control. The cited portion of Holma (paragraph 51) indicates that the maximum delay of service becomes shorter when the ARQ protocol is used together with fast power control than if the ARQ protocol is used without fast power control. Allegedly, one reason for this is that when the channel fades, fast power control allows to rapidly increase the transmission power. The use of slow power control would result in retransmitting the data. It is respectfully submitted that nothing in this discussion of the speed of **power control** discloses or suggests combining relatively fast traffic control with relatively slow control of the number of active connections. Furthermore, there is no

motivation to combine Sarkar with Holma other than that which can be gleaned from the present application. The alleged motivation suggested by the Office Action "optimal power control" is allegedly provided by Holma alone and therefore does not motivate a combination with Sarkar. Furthermore, such a combination would not arrive at the subject matter of **claim 23**.

Therefore, the Office has not met its burden of presenting a *prima facie* case of obviousness.

For at least the foregoing additional reasons, **claim 23** is not obvious in light of Sarkar and Holma.

Telephone Interview

In the interests of advancing this application to issue the Applicant(s) respectfully request that the Examiner telephone the undersigned to discuss the foregoing or any suggestions that the Examiner may have to place the case in condition for allowance.

CONCLUSION

Claims 1-21 and **23-25** remain in the application. **Claims 1, 3, 6, 7, 13-15, 17** and **21** have been amended. For at least the reasons discussed hereinabove, the application is in condition for allowance. Accordingly, an early indication thereof is respectfully requested.

Respectfully submitted,

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March 17, 2008
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CERTIFICATE OF MAILING OR TRANSMISSION

Under 37 C.F.R. § 1.8, I certify that this Amendment is being

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